ASSEMBLY, No. 5412

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MAY 20, 2019

Sponsored by:
Assemblyman ROBERT J. KARABINCHAK
District 18 (Middlesex)
Assemblyman CLINTON CALABRESE
District 36 (Bergen and Passaic)
Assemblyman KEVIN J. ROONEY
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Requires telecommunications service providers to provide call mitigation technology to subscribers.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/18/2019)

AN ACT concerning call mitigation technology and amending and supplementing P.L.2003, c.76.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2003, c.76 (C.56:8-120) is amended to read as follows:

2. As used in **[**this act**]** P.L.2003, c.76 (C.56:8-119 et seq.):

"Autodialed telephone call" means:

a. a telephone call made using equipment that makes a series of telephone calls to stored telephone numbers, including numbers stored on a list, or to telephone numbers produced using a random or sequential number generator, except that the term does not include a telephone call made using only equipment that the caller demonstrates requires substantial additional human intervention to dial or place a telephone call after a human initiates the telephone call or series of telephone calls;

b. a telephone call made using an artificial or prerecorded voice message; or

c. a text message made using equipment that issues 20 or more text messages at a time, or sends a series of nearly identical texts to telephone numbers on a list, or to telephone numbers produced using a random or sequential number generator, except that the term does not include texts that the sender demonstrates were sent to the sender's personal acquaintances.

"Autodialed telephone call" shall not mean a telephone call or text message made for bona fide political, religious, or charitable activities of a nonprofit corporation, trust, or organization established exclusively for political, religious, or charitable purposes.

"Customer" means an individual who is a resident of this State and a prospective recipient of a telemarketing sales call.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Local exchange telephone company" means a telecommunications carrier authorized by the Board of Public Utilities to provide local telecommunications services.

"Merchandise" means merchandise as defined in subsection **[**(c)**]** c. of section 1 of P.L.1960, c.39 (C.56:8-1), including an extension of credit.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

"No telemarketing call list" or "no call list" means a list of telephone numbers of customers in this State who desire not to receive unsolicited telemarketing sales calls whether the telemarketer is a human initiating an unsolicited telemarketing sales call or the telemarketer uses another means of making an unsolicited telemarketing sales call, including, but not limited to, making an autodialed telephone call.

"Prior express consent" means an agreement provided by a called customer to allow the caller to make an autodialed telephone call to the called customer's telephone in relation to the specific subject matter for which the telephone call is made.

"Telemarketer" means any entity, whether an individual proprietor, corporation, partnership, limited liability corporation, or any other form of business organization, whether on behalf of itself or others, who makes residential telemarketing sales calls to a customer when the customer is in this State or any person who directly controls or supervises the conduct of a telemarketer.

"Telemarketing" means any plan, program, or campaign which is conducted by telephone to encourage the purchase or rental of, or investment in, merchandise, but does not include the solicitation of sales through media other than a telephone call.

"Telemarketing sales call" means a telephone call, including an autodialed telephone call, made by a telemarketer to a customer as part of a plan, program, or campaign to encourage the purchase or rental of, or investment in, merchandise, except for continuing services. A telephone call made to an existing customer for the sole purpose of collecting on accounts or following up on contractual obligations shall not be deemed a telemarketing sales call.

“Telephone call mitigation technology” means technology that identifies an incoming telephone call as being, or as likely being, an autodialed telephone call and blocks the telephone call, diverts the telephone call to the called person's answering system, or otherwise prevents the telephone call from being completed to the called person, except that the technology permits a telephone call so identified to be completed when the telephone call is identified as being made by a law enforcement or public safety entity, or when the telephone call is identified as originating from a caller with whom the called person has provided prior express consent to receive a telephone call and has not revoked that consent.

“Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or other information to a point, or between or among points, regardless of the telecommunciations infrastructure used.

“Telecommunications service provider” or “provider” means any person, business, or organization that provides a subscriber with a telecommunications service for a fee.

"Unsolicited telemarketing sales call" means any telemarketing sales call other than a call made:

[(1)**]** a. in response to an express written request of the customer called; or

[(2)**]** b. to an existing customer, which shall include the ability to collect on accounts and follow up on contractual obligations, unless the customer has stated to the telemarketer that the customer no longer desires to receive the telemarketing sales calls of the telemarketer.

(cf: P.L.2003, c.208, s.1)

2. (New section) To the extent consistent with federal law, any telecommunications service provider that provides telecommunications service to subscribers residing in this State shall make telephone call mitigation technology available to any subscriber residing in this State receiving a telecommunications service from the provider at no additional charge to the subscriber.

3. This act shall take effect immediately.

STATEMENT

This bill requires telecommunications service providers (providers) that provide telecommunications service to subscribers residing in this State to make telephone call mitigation technology, as that term is defined in the bill, to any subscriber in this State, at no additional charge to the subscriber. Further, the bill redefines the term "telemarketing sales call" to include "autodialed telephone calls," as that term is defined in the bill, which are also known as "robocalls."